

ATTACHMENT D

From: Maria, David (USAMN) 1 <David.Maria@usdoj.gov>
Sent: Wednesday, August 23, 2017 6:09 PM
To: Wade, Lance
Cc: OConnor, Sarah; james.volling@FaegreBD.com; Petrosinelli, Joe; Kokkinen, John (USAMN)
Subject: RE: United States v. Adams (Case No. 17-cr-64-DWF-KMM)

Lance,

As you have now identified those documents that you believe are privileged, we will establish a taint team (or individual) who will serve as your point of contact for these issues. Once someone has been designated as the point person, I will have him or her contact you directly, and I anticipate that this will happen within the next week or two. I will send you the name of the individual once I know it.

As to the remaining documents that are not in our review database, the government will retain those materials for authentication purposes, but I can assure that you nobody on the prosecution team has had, or will have, access to those documents.

Please call me if you would like to discuss further. Otherwise, I will hopefully have a name for you by sometime next week.

Thanks,
David

From: Wade, Lance [mailto:LWade@wc.com]
Sent: Monday, August 21, 2017 12:49 PM
To: Maria, David (USAMN) 1 <dmaria1@usa.doj.gov>
Cc: OConnor, Sarah <SOConnor@wc.com>; james.volling@FaegreBD.com; Petrosinelli, Joe <JPetrosinelli@wc.com>; Kokkinen, John (USAMN) <jkokkinen@usa.doj.gov>; Wade, Lance <LWade@wc.com>
Subject: RE: United States v. Adams (Case No. 17-cr-64-DWF-KMM)

David,

Our initial review of the potentially privileged materials is now complete. I am happy to have a call to discuss the path going forward, but we are firmly of the view that the prosecution team should have no role in this process. We should be interacting with the taint team – i.e., the one that made the privilege determinations in the first instance. Moreover, as a practical matter, the process you outlined below is not feasible. There are over a thousand privileged documents that need to be culled out of the database, and I don't believe that can await the document-by-document assessment you describe. Nor do we believe such an assessment is either warranted or appropriate.

In addition, please return to Mr. Adams the documents you have filtered out and not permitted the prosecution team to review, or certify that those documents have been destroyed. Those documents are not lawfully in the government's possession.

Please let me know when you are available for a call to discuss a path forward on the privilege materials.

--Lance

Lance Wade
Williams & Connolly LLP
 725 Twelfth Street, N.W., Washington DC 20005
 (P) 202-434-5755 | (F) 202-434-5029
lwade@wc.com | www.wc.com/lwade

From: Maria, David (USAMN) 1 [<mailto:David.Maria@usdoj.gov>]
Sent: Thursday, June 29, 2017 2:48 PM
To: Wade, Lance <LWade@wc.com>
Cc: OConnor, Sarah <SOConnor@wc.com>; james.volling@FaegreBD.com; Petrosinelli, Joe <JPetrosinelli@wc.com>; Kokkinen, John (USAMN) <John.Kokkinen@usdoj.gov>
Subject: RE: United States v. Adams (Case No. 17-cr-64-DWF-KMM)

Lance—

If you can identify for us the documents that you believe are privileged, we will have those documents segregated and will have someone outside of the prosecution team assigned to review them. If there are, in fact, privileged documents that remain in the database, we will immediately take steps to determine why they were not removed during our filtering process.

As I indicated earlier, we do not intend to detail for you the methods that we utilized to filter the database, nor are we aware of any precedent that requires us to do so. That being said, if there are specific categories of documents that you are seeing in the database that you believe are privileged, I am happy to discuss with you why we did or did not believe those documents to be privileged, or to explore how they were missed in the filtering process if they were, in fact, privileged. Please call me if you care to discuss any of these issues.

Best regards,

David

From: Wade, Lance [<mailto:LWade@wc.com>]
Sent: Thursday, June 22, 2017 11:50 AM
To: Maria, David (USAMN) 1 <dmaria1@usa.doj.gov>
Cc: OConnor, Sarah <SOConnor@wc.com>; james.volling@FaegreBD.com; Petrosinelli, Joe <JPetrosinelli@wc.com>; Kokkinen, John (USAMN) <jkokkinen@usa.doj.gov>; Wade, Lance <LWade@wc.com>
Subject: RE: United States v. Adams (Case No. 17-cr-64-DWF-KMM)

Counsel:

We are writing to follow-up on the privilege issues discussed below. We have identified numerous privileged and/or work product protected documents in the database to which you say the prosecution team has access. The privileged materials in that database appear to include documents directly related to the allegations in the indictment, as well as many privileged documents that are unrelated to the allegations in the indictment. Given the large volume of documents and the numerous potential privileges implicated, it will take us some time to identify all of the privileged materials. That task is made all the more difficult by the government's refusal to provide us with the search terms and protocol it used in its efforts to cull out privileged

material. In any event, the government is now on notice that it is improperly accessing privileged information, and, accordingly, its review of the Yahoo email should cease immediately until our review is complete.

In addition, we reiterate our request that you disclose the search terms and protocol the government used in its effort to try to identify privileged information. This information will expedite our efforts to identify privileged information in the prosecution team database. We would also ask you to give us a contact for the attorney leading the taint team so that we can address privilege issues directly with that lawyer.

Sincerely,

Lance Wade
Williams & Connolly LLP
 725 Twelfth Street, N.W., Washington DC 20005
 (P) 202-434-5755 | (F) 202-434-5029
lwade@wc.com | www.wc.com/lwade

From: Maria, David (USAMN) 1 [<mailto:David.Maria@usdoj.gov>]
Sent: Tuesday, June 06, 2017 3:52 PM
To: Wade, Lance <LWade@wc.com>
Cc: OConnor, Sarah <SOConnor@wc.com>; james.volling@FaegreBD.com; Petrosinelli, Joe <JPetrosinelli@wc.com>; Kokkinen, John (USAMN) <John.Kokkinen@usdoj.gov>
Subject: RE: United States v. Adams (Case No. 17-cr-64-DWF-KMM)

There will be a thumb drive in an envelope at will call here in Minneapolis. I'll put Jim's name on it.

From: Wade, Lance [<mailto:LWade@wc.com>]
Sent: Tuesday, June 06, 2017 2:48 PM
To: Maria, David (USAMN) 1 <dmaria1@usa.doj.gov>
Cc: OConnor, Sarah <SOConnor@wc.com>; james.volling@FaegreBD.com; Petrosinelli, Joe <JPetrosinelli@wc.com>; Kokkinen, John (USAMN) <kokkinen@usa.doj.gov>
Subject: RE: United States v. Adams (Case No. 17-cr-64-DWF-KMM)

We will pick up a disk when it is ready. Thank you.

Lance Wade
Williams & Connolly LLP
 725 Twelfth Street, N.W., Washington DC 20005
 (P) 202-434-5755 | (F) 202-434-5029
lwade@wc.com | www.wc.com/lwade

From: Maria, David (USAMN) 1 [<mailto:David.Maria@usdoj.gov>]
Sent: Monday, June 05, 2017 10:56 AM
To: Wade, Lance <LWade@wc.com>
Cc: OConnor, Sarah <SOConnor@wc.com>; james.volling@FaegreBD.com; Petrosinelli, Joe <JPetrosinelli@wc.com>; Kokkinen, John (USAMN) <John.Kokkinen@usdoj.gov>
Subject: RE: United States v. Adams (Case No. 17-cr-64-DWF-KMM)

Lance,

I checked on this with our lit support folks, and, apparently, they did not understand what our paralegal had requested. On the hard drive that you received, they did not include the full set of data for the two Adams accounts (edwardsadams@yahoo.com and jafman1@yahoo.com) that we received from Yahoo. We will burn those databases to a thumb drive or hard drive and get them to you. I can either send by Fed Ex, or I can leave an envelope here at will call, and Jim can have someone from his office pick it up. Let me know what you prefer. The folder that was labeled as “unfiltered” on the drive that you received is the “Main Emails” folder that I described below, which is the database to which the investigation/prosecution team has access. The folder that was labeled as “filtered” on the drive that you received is the “Adams taint” database that I described below, which includes materials that were extracted from the database in an effort to remove potentially privileged materials.

Again, the only database to which we have access is the folder that was labeled “Adams_Yahoo_Unfiltered” on the drive that you received. If there are materials in this folder that you believe are privileged, please let us know, and we will address the issue immediately.

I apologize for any confusion. Part of the problem is that I could not access and check the materials before we sent them out to ensure that they were labeled correctly, as I can only access one of the databases.

Please call me with additional questions, and let me know how you want to receive the materials for the two Yahoo accounts in the format that we received them from Yahoo.

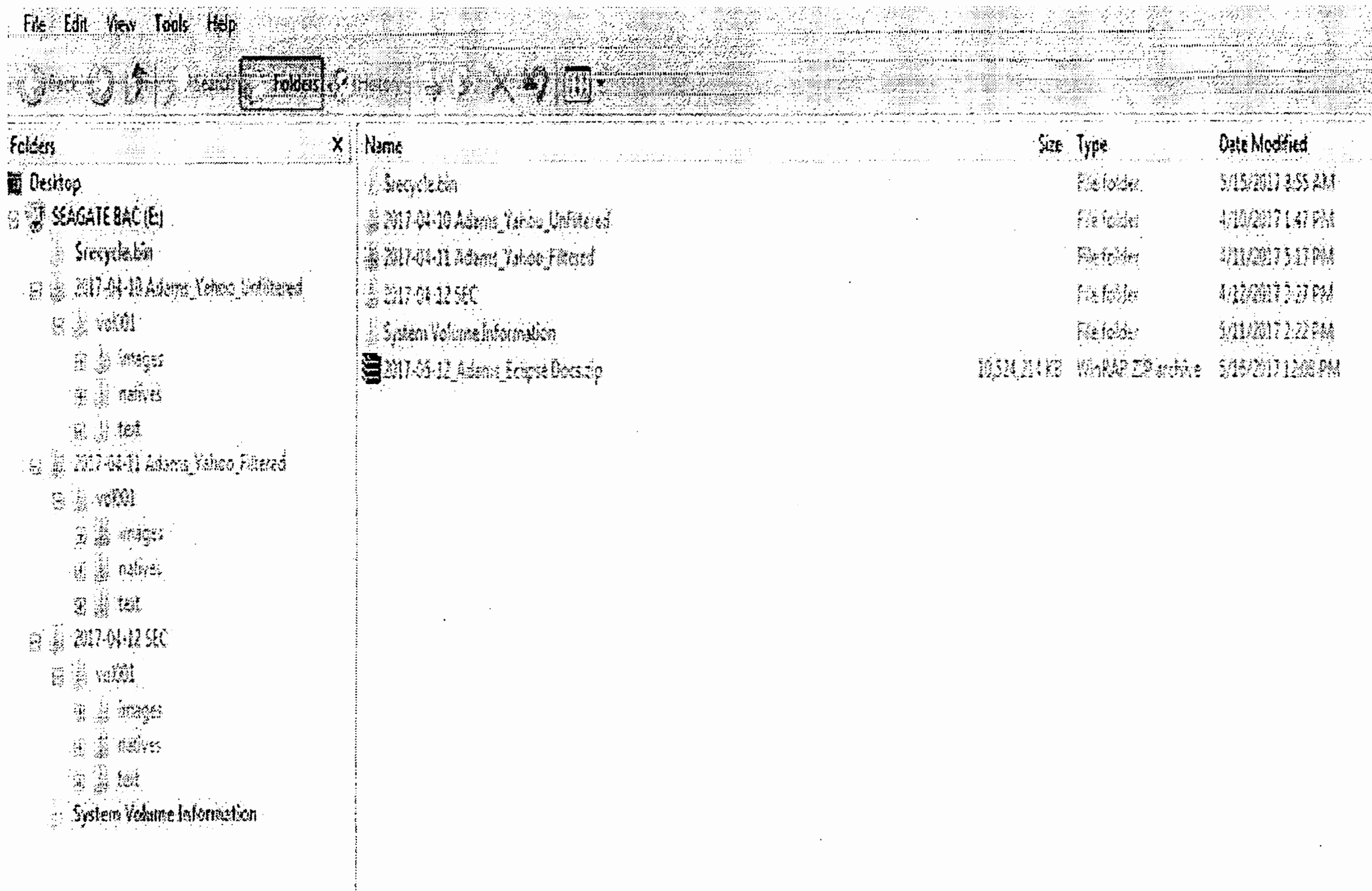
Thanks,
David

From: Wade, Lance [<mailto:LWade@wc.com>]
Sent: Friday, June 02, 2017 12:57 PM
To: Maria, David (USAMN) 1 <dmaria1@usa.doj.gov>; Kokkinen, John (USAMN) <jkokkinen@usa.doj.gov>
Cc: OConnor, Sarah <SOConnor@wc.com>; james.volling@FaegreBD.com; Petrosinelli, Joe <JPetrosinelli@wc.com>
Subject: RE: United States v. Adams (Case No. 17-cr-64-DWF-KMM)

Counsel:

The hard drive we received from the government does contain folders for unfiltered and filtered email, as described in your prior correspondence. The hard drive does not contain the subfolders you describe in your most recent email. (See below screenshot of the hard drive you provided us.) Thus, our questions remain the same.

--Lance Wade



Lance Wade

Williams & Connolly LLP

725 Twelfth Street, N.W., Washington DC 20005

(P) 202-434-5755 | (F) 202-434-5029

lwade@wc.com | www.wc.com/lwade

From: Maria, David (USAMN) 1 [<mailto:David.Maria@usdoj.gov>]

Sent: Friday, June 02, 2017 12:00 PM

To: Wade, Lance <LWade@wc.com>; Kokkinen, John (USAMN) <John.Kokkinen@usdoj.gov>

Cc: OConnor, Sarah <SOConnor@wc.com>; james.volling@FaegreBD.com; Petrosinelli, Joe <JPetrosinelli@wc.com>

Subject: RE: United States v. Adams (Case No. 17-cr-64-DWF-KMM)

Lance,

I did some checking, and it appears as though our lit support folks did not label the databases as I had instructed (as "unfiltered" and "filtered").

On the drive that you received, one of the Relativity folders had a sub folder in it that contains all of the unfiltered emails from Adams' two Yahoo accounts, as we received them from Yahoo. The other Relativity folder contained three sub-folders, titled "Main Emails," "Adams Taint," and "SEC." The folder titled "Main Emails" should be what the letter referred to as the "filtered" email database. This is the database to which the investigation/prosecution team has access. It includes the filtered documents from both of Adams' email accounts, as well as the filtered documents from Monahan's email account. We do not have access to the "Adams Taint" folder. These were emails that were removed from the unfiltered database and do not reside in the "Main Emails" database to which we have access. I believe that

the concerns that you raise in no. 2, below, likely relate to documents in the "Adams Taint" folder. The "SEC" folder is from the SEC's investigation and does not relate to the Yahoo emails.

If there are materials in the "Main emails" folder that you believe are privileged, please let us know, and we will address the issue immediately.

As to request no. 4, I believe that we produced to you the affidavits and warrants. I also cannot access these "MJ" numbers on ECF, as I am not sure if they ever load the MJ file numbers to ECF. My guess is that, if there are additional documents beyond what we produced, they consist of the sealing motions/orders, etc. I will check our hard copy files and see what exists, and I'm happy to send you what I find. Also, I believe that you should be able to get the complete files for each MJ number from the clerk's office.

Please give me a call if you have additional questions.

Regards,
David

From: Wade, Lance [<mailto:LWade@wc.com>]
Sent: Friday, June 02, 2017 9:39 AM
To: Maria, David (USAMN) 1 <dmaria1@usa.doj.gov>; Kokkinen, John (USAMN) <kokkinen@usa.doj.gov>
Cc: OConnor, Sarah <SOConnor@wc.com>; james.volling@FaegreBD.com; Petrosinelli, Joe <JPetrosinelli@wc.com>; Wade, Lance <LWade@wc.com>
Subject: RE: United States v. Adams (Case No. 17-cr-64-DWF-KMM)

Counsel:

This follows up on prior correspondence regarding the seized email.

1. The government's description of the databases set forth below and in other correspondence does not match what was produced in discovery. We understand from your correspondence that there is one database (called "unfiltered") that contains all of the emails that were in the various Yahoo accounts, and one database ("filtered") that contains only the material to which the prosecution team has access. Therefore, we assume that the "filtered" database is a subset of the "unfiltered" database. Based on an initial review of the materials, that does not appear to be the case. Rather, the "filtered" database has more documents than the "unfiltered" database. Please clarify.
2. Based on limited initial searches, it appears that there are hundreds, if not thousands, of privileged documents within the filtered database to which the government has access. This is obviously very concerning, particularly since many of those documents appear to be communications between Mr. Adams and counsel who represented him in connection with government investigations of matters that are the subject of your indictment. The government's accessing of these privileged documents, therefore, not only infringes on Mr. Adams' legal privileges and protections, but may also violate his Fifth and Sixth Amendment rights. It will take us time to fully assess these issues. We therefore renew our request that the government cease its review of Mr. Adams' email until this matter has been fully addressed. Please confirm that the government will cease its review.
3. Based on # 2 above, we reiterate our requests for information set forth below, which will help us address these issues more promptly.
4. Please provide us with copies of all pleadings in matters 15-MJ-942 and 16-MJ-8. You previously only provided us with selected pleadings from those matters. It appears that those matters are no longer sealed, but we do not have access to those pleadings on Pacer.

Sincerely,

Lance Wade
Williams & Connolly LLP
 725 Twelfth Street, N.W., Washington DC 20005
 (P) 202-434-5755 | (F) 202-434-5029
lwade@wc.com | www.wc.com/lwade

From: Maria, David (USAMN) 1 [<mailto:David.Maria@usdoj.gov>]
Sent: Thursday, May 25, 2017 10:56 AM
To: Wade, Lance <LWade@wc.com>; Kokkinen, John (USAMN) <John.Kokkinen@usdoj.gov>
Cc: OConnor, Sarah <SOConnor@wc.com>; james.volling@FaegreBD.com; Petrosinelli, Joe <JPetrosinelli@wc.com>
Subject: RE: United States v. Adams (Case No. 17-cr-64-DWF-KMM)

Lance,

As I mentioned in my email below, the government does not intend to provide you with information regarding the process that was undertaken to filter the emails, nor are we aware of any authority that obligates us to do so. That being said, if you can provide us with any such authority, we will review it and reconsider.

Again, if there are specific documents or categories of documents that you have seen in the filtered database that you believe we should not possess, please let us know. There does not appear to be any basis to challenge our process unless and until you identify materials that are in the filtered database that you believe are inappropriately in our possession.

Please call me if you care to discuss further. I am around all morning: (612) 664-5681.

Thanks,
 David

From: Wade, Lance [<mailto:LWade@wc.com>]
Sent: Thursday, May 25, 2017 8:19 AM
To: Maria, David (USAMN) 1 <dmaria1@usa.doj.gov>; Kokkinen, John (USAMN) <jkokkinen@usa.doj.gov>
Cc: OConnor, Sarah <SOConnor@wc.com>; james.volling@FaegreBD.com; Petrosinelli, Joe <JPetrosinelli@wc.com>; Wade, Lance <LWade@wc.com>
Subject: RE: United States v. Adams (Case No. 17-cr-64-DWF-KMM)

Counsel:

In our call on May 9, Assistant U.S. Attorney Maria advised me, Mr. Petrosinelli, and Mr. Volling that the government would review memoranda it had prepared and provide us with an explanation regarding how Mr. Adams' seized email was processed and filtered for review. We understand from the email below that the government is now changing its position and refusing to engage in dialogue with us on these issues. The government's refusal to provide further information prevents us from assessing whether (and, if so, the degree to which) it infringed on Mr. Adams' constitutional and legal privileges, and it will force us to burden the Court with litigation that might have been avoided through further discussion.

We reiterate our request that you cease review of Mr. Adams' email until we have had an opportunity to fully assess and litigate these issues (which may take time, given the voluminous emails, which are still in the process of loading). And

we request that the government preserve all memoranda, documents, communications, and other evidence relating to the handling, processing, and reviewing of Mr. Adams' email.

Sincerely,

Lance Wade
Williams & Connolly LLP
725 Twelfth Street, N.W., Washington DC 20005
(P) 202-434-5755 | (F) 202-434-5029
lwade@wc.com | www.wc.com/lwade

From: Maria, David (USAMN) 1 [<mailto:David.Maria@usdoj.gov>]
Sent: Wednesday, May 24, 2017 2:14 PM
To: Wade, Lance <LWade@wc.com>; Kokkinen, John (USAMN) <John.Kokkinen@usdoj.gov>
Cc: OConnor, Sarah <SOConnor@wc.com>
Subject: RE: United States v. Adams (Case No. 17-cr-64-DWF-KMM)

Lance,

I have now reviewed your May 16, 2017 letter. As an initial matter, when we spoke previously, I indicated that I would review materials and conduct research to determine what information, if any, I would share with you regarding the filtering and review process that we employed in connection with the search warrant executed on Mr. Adams' two Yahoo email addresses. I did not, at that time, agree to provide you with an explanation of the process, though you did note that you would be interested in a description of the process.

Upon researching the issue, we are unaware of any authority that requires the disclosure by the government to the defense of such a description or explanation of the process. We have turned over the search warrant and accompanying affidavit, and you are, obviously, free to challenge the propriety of the search in your pretrial motions. Moreover, as I explained, we provided to you the unfiltered database, which contains all of the emails that were in the accounts, as well as the filtered version (i.e., the seized documents) that is the database to which the prosecution team has had access. If there are specific documents within the filtered database that you believe are privileged, or should not be in the government's possession for some other reason, we can address those issues on a document-by-document basis. To the extent that we agree that there are privileged documents that remain in the database, we will immediately have them removed.

In response to your additional requests, we also do not believe that we have an obligation to identify all individuals involved in the handling of the search warrant materials, nor will we "cease review" of the materials.

We are still available for a call, if you have questions or care to discuss this further.

Best regards,

David

David M. Maria
Assistant United States Attorney
District of Minnesota, Criminal Division
600 U.S. Courthouse
300 South Fourth Street

Minneapolis, MN 55415
V: 612.664.5681 | F: 612.664.5787

From: Wade, Lance [<mailto:LWade@wc.com>]
Sent: Wednesday, May 24, 2017 12:53 PM
To: Maria, David (USAMN) 1 <dmaria1@usa.doj.gov>; Kokkinen, John (USAMN) <kokkinen@usa.doj.gov>
Cc: OConnor, Sarah <SOConnor@wc.com>
Subject: RE: United States v. Adams (Case No. 17-cr-64-DWF-KMM)

What times work today for a call?

Lance Wade
Williams & Connolly LLP
725 Twelfth Street, N.W., Washington DC 20005
(P) 202-434-5755 | (F) 202-434-5029
lwade@wc.com | www.wc.com/lwade

From: Maria, David (USAMN) 1 [<mailto:David.Maria@usdoj.gov>]
Sent: Wednesday, May 24, 2017 11:46 AM
To: Wade, Lance <LWade@wc.com>; Kokkinen, John (USAMN) <John.Kokkinen@usdoj.gov>
Subject: RE: United States v. Adams (Case No. 17-cr-64-DWF-KMM)

No, this did not come through prior to now, but we have now received it.

Please call me if you would like to discuss the substance of the letter.

David M. Maria
Assistant United States Attorney
District of Minnesota, Criminal Division
600 U.S. Courthouse
300 South Fourth Street
Minneapolis, MN 55415
V: 612.664.5681 | F: 612.664.5787

From: Wade, Lance [<mailto:LWade@wc.com>]
Sent: Wednesday, May 24, 2017 10:41 AM
To: Kokkinen, John (USAMN) <kokkinen@usa.doj.gov>; Maria, David (USAMN) 1 <dmaria1@usa.doj.gov>
Subject: FW: United States v. Adams (Case No. 17-cr-64-DWF-KMM)

Gentlemen,

Our servers received a notice that this may not have gone through. Please confirm receipt. Thanks.

--Lance

Lance Wade
Williams & Connolly LLP

725 Twelfth Street, N.W., Washington DC 20005
(P) 202-434-5755 | (F) 202-434-5029
lwade@wc.com | www.wc.com/lwade

From: Wade, Lance
Sent: Tuesday, May 16, 2017 4:56 PM
To: jkokkinen@usa.doj.gov; dmaria1@usa.doj.gov
Cc: james.volling@FaegreBD.com; Petrosinelli, Joe <JPetrosinelli@wc.com>; OConnor, Sarah <SOConnor@wc.com>
Subject: United States v. Adams (Case No. 17-cr-64-DWF-KMM)

Counsel:

Please see attached.

--Lance

Lance Wade
Williams & Connolly LLP
725 Twelfth Street, N.W., Washington DC 20005
(P) 202-434-5755 | (F) 202-434-5029
lwade@wc.com | www.wc.com/lwade

This message and any attachments are intended only for the addressee and may contain information that is privileged and confidential. If you have received this message in error, please do not read, use, copy, distribute, or disclose the contents of the message and any attachments. Instead, please delete the message and any attachments and notify the sender immediately. Thank you.